

The future of the depository 2025

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Acknowledgement / introduction:

- I would like to start by thanking FundsPeople for hosting us and inviting us, another year, to join the opening ceremony. In previous editions, the event has opened the floor to an interesting discussion regarding the situation of the depository sector, bringing together participants of the industry with the CIS management companies they cater their services to. I am sure this year will be no different.
- Throughout my speech I will be touching on data of the depository sector and highlight some regulatory initiatives, as well as issues that the CNMV is currently focusing on from a supervisory perspective. I will end by mentioning some of the challenges we are facing. And I mean challenges, in plural, as we share them with all market participants, including supervisors, depositories and managers. In any case, as they are shared challenges, we must tackle them according to our corresponding responsibilities.

Such responsibilities, in the case of depositories, are very important, crucial even, to the legal safety of collective investment and investor protection, as they are responsible for ensuring the existence of the assets.

1 Data of the depository sector.

- Participants: Over the last few years, it's easy to say that the depository sector of CISs and Venture Capital Firms (ECR for its abbreviation in Spanish) in Spain is a mature and consolidated one. There have been no recent noteworthy developments in the small number of participants (14 active entities) or in the market distribution among the latter (the five largest entities control almost 90% of the market). However, additional consolidation cannot be disregarded, given that half of the sector (seven entities) have a marginal market share (under 1.5%) and only provide services to entities within their group.
- Market size: The numbers for assets under CISs or venture capital firms' custody continue to rise (468 billion euros) and the number of participant accounts (over 16 million) are a clear representation of the economic and social importance of collective investment in Spain. Nonetheless, these figures should not be interpreted in a complacent manner, given that the absolute size of our CISs/depository market

is small compared to other EU markets (e.g. the largest European market, Luxembourg, is more than 12 times the size of the Spanish market), which limits the economies of scale to which Spanish entities and their participants can achieve.

- Business model: It is worth highlighting that today, unlike the case a few years ago, 75% of assets are currently held by depositories outside the management company's economic group. This model of independence between both entities reduces conflicts of interest and strengthens the robustness of the controls carried out by depositories, therefore, from a supervisory point of view, the assessment must be positive.
- Income generated: As for income generated by depository activities, we only have data of specific fees (244 million in 2024). The total amount of income associated with the activity is much higher, although it cannot be specified as we lack statistical data of remaining income obtained from services such as settlement of transactions, currency exchange, or others.

In relative terms, the average deposit fee is 6 basis points, which, after years of declines, is well below the legal limit of 20 basis points. When distinguishing between business models, it is worth noting that the average commission of CISs whose depository belongs to the same group as the manager is 30% higher than that of CISs under an external depository. There are different reasons for this higher level of costs when the depository is part of the group, but their existence must be carefully analysed and justified by the corresponding management companies in their depository selection processes.

2. Main regulatory initiatives

Regarding the regulatory aspects, I would like to highlight some horizontal initiatives and certain specific aspects related to depository activity.

- Regulatory issues with the greatest long-term impact for managers and depositories may not be those related to specific regulations, but rather initiatives such as the one recently launched at a European level named the “strategy for a Savings and Investments Union” (SIU). It aims to improve the channelling of savings towards productive investment. To such effects, the goal is for citizens to channel a larger percentage of savings into capital markets, thereby providing companies greater funding options. In turn, household wealth would increase, and competitiveness and economic growth would be boosted. The initiative is ambitious, still pending finalisation, with legislative proposals and other initiatives.

The possible contents of the SIU include the creation of an “*individual savings and investment account*”, which is also being discussed in other forums, such as the European Competitiveness Laboratory, and also proposed by the OECD in its “*report on the revitalisation the Spanish capital market*”. The CNMV supports the idea and aims to assist the Treasury in its design.

The success of the “*individual retail savings account*” depends on an appropriate design, tax treatment and alignment with investor expectations (who demand

profitable, simple, low-cost products and insurance). Should these initiatives be confirmed and achieve their objectives, CISs could benefit from a significant increase in their assets, considering that, due to their characteristics, they are the perfect vehicle for retail investors to access capital markets and financial instruments with a higher level of risk and sophistication. I don't think further explanation or detail is needed in this forum.

Along these lines, other initiatives could be highlighted, such as that of the European Commission to promote the competitiveness of capital markets by simplifying the regulatory framework and reducing barriers. At a local level, the CMNV aims to simplify regulatory aspects, such as internal procedures and formalities, provided that these are not justified and do not add value to investor protection.

- We can look at the specific regulations on CISs, both of which I deem most relevant, the transposition of the Alternative Investment Fund Managers Directive (AIFMD) and the draft ministerial order on securities lending by CISs.

There are no updates regarding the status of the procedure for securities loan order that you may not already know. We hope it is approved shortly, thereby eliminating a competitive disadvantage for Spanish CISs. Its implementation will require managers and depositories to develop procedures for loan operations and for the monitoring of the established requirements (limits, collateral, etc.). Moreover, it will enable fund participants who carry out such transactions to obtain additional returns to those they have accessed until now.

Regarding the transposition of the AIFMD (which must take place before 16 April 2026), I believe that the most relevant issue to this forum is concerning the incorporation into Spanish law, or not, of the possibility of allowing the appointment of depositories with registered address in other Member States, as long as provided conditions are met.

I believe there are strong reasons to dismiss the incorporation of this option, as set in the Directive, into national legislation. On one hand, given the existence of sufficient supply of depository services from Spanish entities and, on the other, due to the absence of harmonised European insolvency standards. This would imply that, in the event of insolvency public procurement involving depositories in other States, investors and supervisors would be affected by a legislation that is not their own.

3. Area of supervisory interest in the scope of depositories

Before discussing the issues of supervisory interest regarding depository services, it is worth highlighting the CNMV's positive supervisory experience in this regard and the absence, to date, of any significant problems concerning the misuse of assets held by CISs. Obviously, this does not imply the absence of areas of supervisory interest, such as those I discuss below.

- We consider the procedures followed by management companies to appoint depositories to be of particular interest for supervisory purposes. Essentially, we could say that the depository is an additional service provider to CISs and, therefore, the managers, in compliance with their fiduciary duty, must appoint them exclusively seeking the interests of the CISs and their investors. The European Regulation clarifies that, when choosing a depository, management companies must have procedures in place with objective criteria that take into account the cost and quality of services. Furthermore, if a group depository is appointed, they must be able to prove before the supervisor the advantages of such appointment.

Upon reviewing the procedures for the appointment of depositories for virtually all CISMCS, over recent years we have published several Q&As to notify the supervisory criteria. The last two Q&As were published at the beginning of this year. The first mentions the need to consider, at least, the offers of two suitably selected (credible) candidates when appointing a depository. Moreover, it emphasises that, among the criteria assessed, all actual costs incurred by the CISs must be taken into account, not only depository fees, but also all other costs charged by the designated depository, such as settlement fees, currency exchange fees, account fees, etc. I highlight this point, as the charging of prices above market rates by the depository could entail disciplinary liability for the managers, as was the case recently.

The second Q&A published this year is related to the validity period of contracts. It is worth clarifying that that, where tacit renewals of contracts are contemplated, managers must reassess, at reasonable intervals, the appointment of the depository and that the conditions applied continue to be market conditions. Additionally, if the designated depository is part of the group, they must reassess and be able to certify the advantages of such designation over other unrelated parties. This ensures that older contracts remain compliant with the law and market conditions.

- I would like to briefly touch on other issues relating to our supervisory work in depository banking.
 - o In the absence of explicit references in the regulations to the work of depositories in the field of sustainability (ESG), we are eager to learn the markets' practice, reason why we will be sending a questionnaire. More specifically on the controls carried out with regard to ESG fund investment policies (Articles 8 and 9) and on the sustainability content of annual public information.
 - o Lastly, I would like to take this opportunity to highlight some deficiencies identified in venture capital firm depositories. On one hand, there are specific cases in which documentary evidence for non-custodial assets is provided directly to the depository by the manager, which implies a clear deficiency in control and should only occur in highly justified cases and provided that additional verification procedures are in place.

On the other, these are isolated cases due to a lack of control by the depository over the manager's compliance with its obligations to provide information on assets pledged by venture capital firms.

4. The future of the depository

In my opinion, the future of depository activity depends on efficiency gains, which can come mainly from two sources: greater size, allowing access to scale economies, and those derived from the use of technology. In terms of size, apart from organic growth, inorganic growth is fairly limited in our market (given the small number of players and their level of concentration). This means that the sector's challenge lies in achieving efficiency gains derived from technology. Today, there will be a panel discussion on aspects related to technology and business opportunities, which is why I will only point out a few issues in this regard:

- Among the opportunities arising from technology, I would highlight the use of Artificial Intelligence (AI) and distributed ledger technology (DLT) for the representation of securities. AI can be applied to different control processes or in interactions with customers. Our objective is to understand how supervised entities use AI, which is why we have included a related initiative in our plan for 2025.

With regard to DLT technology, potential disruptive effects on securities trading, registration and clearing have long been anticipated. It has also been some time since the pilot regime on DLT securities was established in Europe in 2022 and since the Law on Securities Markets and Investment Services (LMVSI for its abbreviation in Spanish) was amended to cover securities represented by this technology. However, for the time being, the reality is far from the expectations generated, as in our market we only have a few isolated cases of unlisted securities represented in DLT and one IF (pending to start operations) focused on providing investment services on financial instruments represented using this technology.

- From the supervisor's perspective, one cannot talk about the opportunities led by technology without highlighting, at the same level, the risks. This year, the European regulation known as DORA on resilience in the digital operations of the financial sector came into force, aiming to improve entities' cybersecurity. The recent case of Bybit, where hackers stole cryptocurrencies worth 1.5 billion US dollars, is a real example of the potential impact of cyber-risks and the need to continue investing in strengthening cybersecurity.

To sum up, I hope you find today's event interesting. I for one believe that the depository sector has solid foundations on which to build a strong future. To do so, it must continue to perform well in its critical role of ensuring the existence of assets, which currently requires paying close attention to investments in technology. In any case, this future also depends largely on extended capital markets that reach the sources of financing available to the production sector and increase the presence of retail investors. CISs can become a key element in achieving this goal. Thus, all market participants must contribute to ensuring that retail investors have access, through appropriate marketing, to simple, safe products with reasonable returns and fair costs. The CNMV offers full support to this regard.